



## Supreme Court Reform: The Case for Regional Benches

This editorial is based on [“Should India have regional benches of the Supreme Court?”](#) which was published in The Hindu on 23/02/2024. The article examines the proposal of a parliamentary committee advocating the establishment of regional benches for the Supreme Court.

**For Prelims:** [Article 130](#), [Supreme Court](#), [Chief Justice of India\(CJI\)](#), [Law Commission](#), [Bar Councils](#), [Malimath Committee](#), [National Judicial Infrastructure Authority of India \(NJIAI\)](#).

**For Mains:** Arguments in Favour of Regional Benches of the Supreme Court, Arguments Against the Regional Benches of the Supreme Court

The Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice recently conveyed to the Lok Sabha that the Law Ministry has endorsed its proposal to establish regional benches of the Supreme Court throughout India. However, the apex court has consistently dismissed the notion, noting that the matter is currently sub judice.

### What are the Differing Legal Positions on the Regional Benches of the Supreme Court in India?

- **Article 130 of the Indian Constitution:** It says that the Supreme Court shall sit in Delhi or in such other place or places, as the [Chief Justice of India\(CJI\)](#) may, with the approval of the President, from time to time, appoint.
- **Law Commission Report:** As a step towards making the Court more accessible, the **229<sup>th</sup> Law Commission Report (2009)** recommended four regional benches to be located in Delhi, Chennai or Hyderabad, Kolkata, and Mumbai to hear non-constitutional issues.
- **Bar Councils:** In July 2021, [Bar Councils](#) in the south submitted a representation to the Chief Justice of India seeking that a Supreme Court bench be set up in south India.
- **Parliament Standing Committee Report:** The [Parliament Standing Committee](#) on Personnel, Public Grievances, Law and Justice presented its 107th report on ‘Demands for Grant (2021-22) of the Ministry of Law and Justice’ and batted for the establishment of the regional benches of the Supreme Court as suggested in the 229th report of the Law Commission.
- **Chief Justices of India:** Until now, no Chief Justice of India (CJI) has deemed it suitable to enable the Supreme Court to convene outside of Delhi. Various CJIs have shown little interest in the concept of regional benches, citing concerns that it could diminish the prestige of the Supreme Court.

### What are the Arguments in Favour of Regional Benches of the Supreme Court?

- **Increased Accessibility:**
  - The report from the Parliamentary Standing Committee emphasized that individuals

residing in distant and remote areas face significant challenges in accessing justice in the National Capital.

- Regional benches would make justice more accessible to people living in remote areas or far from the capital. This would reduce the need for individuals to travel to Delhi for legal matters, particularly for those facing financial or logistical challenges.

▪ **Enhanced Focus on Constitutional Matters:**

- With the primary bench in **New Delhi** exclusively addressing **constitutional issues**, there would be a dedicated forum for the adjudication of complex constitutional cases without the distraction of other appellate matters.
- **Regional benches could specialize in handling appellate cases**, allowing judges to develop expertise in specific areas of law relevant to their respective regions. This specialization could lead to more informed decisions.

▪ **Improved Judicial Effectiveness:**

- Regional benches would be better positioned to address local issues and concerns that might not receive sufficient attention at the national level. Judges familiar with regional contexts could deliver more relevant and effective judgments.
- Regional benches would allow cases to be handled more efficiently by judges familiar with local laws and customs. This specialization could lead to quicker and more informed decision-making.

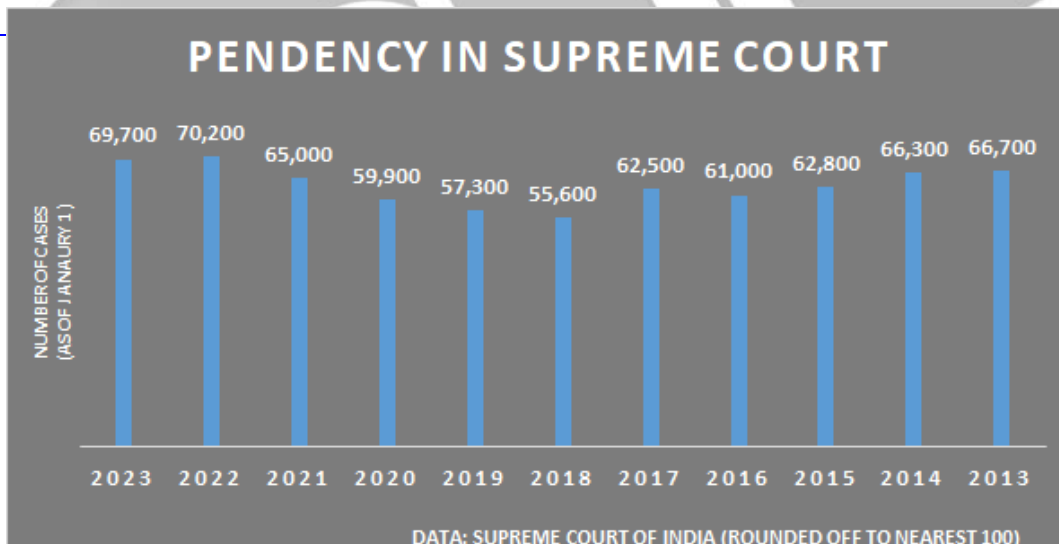
▪ **Greater Opportunities:**

- Establishing regional benches could promote the development of legal infrastructure and expertise across different parts of the country, empowering local legal professionals and enhancing legal awareness at the grassroots level.
- The setting up of regional benches would also lead to greater opportunities and the democratization of the Bar.

▪ **Reduction in Pendency of Cases:**

- In 2023, the Supreme Court witnessed a 31% increase in the disposal of cases compared to 2022. A little more than 80,000 cases are currently pending adjudication out of which 60,000 cases are civil.
- The establishment of regional benches will increase the number of judges as well as lawyers resulting in a much-needed boost to our judicial system.
- By decentralizing the workload of the Supreme Court, regional benches could help ease the burden on the main bench in Delhi. This could lead to faster case resolution and a reduction in pending cases.

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## What are the Arguments Against the Regional Benches of the Supreme Court?

▪ **Fragmentation of Jurisprudence:**

- Regional benches may lead to divergent interpretations of laws and legal principles, resulting in inconsistencies in judicial decisions across different regions of the country.

- The former CJI, K.G. Balakrishnan, went as far as to suggest that it might result in the disintegration of the institution.
- **Increased Litigation:**
  - While a majority of the cases filed in the Supreme Court do arise from High Courts close to Delhi, this imbalance will not be rectified by merely constituting regional benches.
  - Regional benches could potentially increase frivolous or forum-shopping litigation as litigants seek favorable outcomes from benches perceived to be more sympathetic to their cases.
- **Potential Bias and Influence :**
  - There may be concerns about the potential for regional biases or political influence to impact judicial decisions at regional benches, particularly in areas where there are strong local interests or political pressures.
  - There may be concerns about the quality and expertise of judges appointed to regional benches, particularly in comparison to the experienced judges at the principal bench in Delhi. This could impact the consistency and reliability of judicial decisions.
- **Increased Expenditure on Resources and Infrastructure:**
  - Establishing and maintaining regional benches would require significant financial resources and investment in infrastructure, including court facilities and support staff. This could strain already limited judicial resources and budgets.
  - As against the sanctioned strength of 1,114 judges in the high courts across the country, as many as 347 positions are vacant.
  - Similarly, in the district judiciary, out of the total sanctioned strength of 25,081 judges, the working strength was only 19,781. As many as 5,300 district judges' positions are vacant.

## What Should be the Way Forward?

- **A Separation of Constitutional Jurisdiction Benches from Appellate Jurisdiction Benches:** The Tenth Law Commission of India proposed that the Supreme Court be split into two divisions: the Constitutional Division and the Legal Division.
  - The proposal stated that only issues about constitutional law would be brought to the proposed Constitutional Division.
- **Establish a National Court of Appeal for [Special Leave Petitions \(SLPs\)](#):** In *Bihar Legal Support Society v. Chief Justice of India, 1986*, the Supreme Court stated that it was “desirable” to establish a National Court of Appeal that would be able to entertain special leave petitions.
  - This would allow the Supreme Court to only entertain constitutional and public law-related questions.
- **Increase the Number of Working Days:** The [Malimath Committee](#) suggested that the Supreme Court should work for 206 days and it also recommended that the period of vacation should be reduced by 21 days, keeping in mind the long pendency of cases.
  - The 2009 Law Commission, in its 230th report, suggested that court vacations be cut down by 10-15 days at all levels of the judiciary to help cut the backlog of cases.
- **Strengthen Existing Infrastructure:** Prioritize strengthening and modernizing existing judicial infrastructure, including High Courts and district courts, to improve access to justice and reduce backlog of cases.
  - Former CJI NV Ramanna proposed to set up the [National Judicial Infrastructure Authority of India \(NJIAI\)](#) which will help improve judicial infrastructure which currently needs urgent attention.
- **Conduct Feasibility Studies:** Conduct thorough feasibility studies to assess the potential benefits, challenges, and implications of establishing regional benches. These studies should consider factors such as legal, logistical, financial, and constitutional aspects.
  - Consider implementing pilot projects or experimental regional benches in select locations to evaluate their effectiveness and impact on access to justice, judicial efficiency, and consistency of decisions.
- **Keep the Exclusive Power Intact:** Even if regional benches are established, certain exclusive powers of the Supreme Court should be retained – its original jurisdiction under [Article 131](#), its advisory jurisdiction under [Article 143](#), and its writ jurisdiction under [Article 32](#) of the Constitution.
- **Broader Judicial Reforms:** Undertake broader judicial reforms aimed at addressing systemic issues such as judicial backlog, delay in justice delivery, and judicial vacancies, which are crucial

for improving the overall functioning of the legal system.

- Explore the use of technology, such as **video conferencing** and **virtual courtrooms**, to enhance access to justice and facilitate remote adjudication of cases, especially in remote or underserved areas.

## Conclusion

In envisioning the future of India's judiciary, we must embrace a bold vision that balances tradition with innovation, regional diversity with national unity, and accessibility with excellence.

The establishment of regional benches for the Supreme Court could signify a crucial advancement in realizing this vision, holding the potential to deliver a justice system that is more inclusive, responsive, and effective for all citizens.

### Drishti Mains Question:

Critically examine the necessity of establishing regional benches for the Supreme Court in India.

## UPSC Civil Services Examination, Previous Year Questions (PYQs)

### Prelims

**Q. With reference to the Indian judiciary, consider the following statements: (2021)**

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

**Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: A**

### Mains

**Q. Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to the appointment of judges of higher judiciary in India. (2017)**